

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division of Water

(Amendment)

401 KAR 8:250. Inorganic and organic chemical sampling, analytical techniques,~~and~~
maximum contaminant levels, radionuclides, and secondary standards.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141, 142, 143~~[141.11, 141.23,~~
~~141.24, 141.40, 141.41, 141.50, 141.51, 141.61, 141.62, EO 2009-538]~~

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110(2), 40 C.F.R. 141, 142,
143~~[141.11, 141.23, 141.24, 141.40, 141.41, 141.50, 141.51, 141.61, 141.62, 42 U.S.C. 300f-~~
~~300j-26, EO 2009-538]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110(2) requires the
cabinet to enforce administrative regulations promulgated by the secretary for the regulation and
control of the purification of water for public and semipublic use.~~[EO 2009-538, effective June~~
~~12, 2009, establishes 2 the new Energy and Environment Cabinet.]~~ This administrative
regulation establishes sampling and analytical requirements for certain inorganic and organic
chemicals and sets maximum contaminant levels for those chemicals which, if exceeded, may
affect public health. This administrative regulation establishes the requirements for sampling and
testing procedures for radionuclides and establishes maximum contaminant levels for safe
drinking water. This administrative regulation establishes maximum contaminant levels and

requirements for the sampling and testing for contaminants that do not have a direct impact on the health of consumers, but may discourage the utilization of drinking water or discredit the supplier. Provisions for these contaminants are referred to as “secondary standards”. This administrative regulation establishes sampling schedules and requires public water systems to modify treatment to comply with maximum levels established by federal regulation. Federal regulations leave monitoring frequency and consequences for exceeding secondary standards to primacy agency discretion.

Section 1. Inorganic and Organic Chemical Sampling, Analytical Techniques, and Maximum Contaminant Levels. (1) A public water system shall meet the requirements for inorganic chemicals as established in~~[accordance with]~~ 40 C.F.R. 141.11, 141.23, 141.41, 141.51, and 141.62.

~~(2)[Section 2.]~~ A public water system shall meet the requirements for organic chemicals as established in~~[accordance with]~~ 40 C.F.R. 141.24, 141.50, and 141.61.

Section 2. Radionuclides. A community water system shall meet the requirements for radionuclides as established in 40 C.F.R. 141.25, 141.26, 141.55, and 141.66.

Section 3. Sampling, Analysis, Reporting, and Treatment for Secondary Contaminants. (1) A public water system that treats groundwater or surface water shall sample for secondary contaminants as established in 40 C.F.R. 143.1 through 143.4.

(a) An analysis for secondary contaminants shall be performed if a new source of water supply is proposed to the cabinet for preliminary approval pursuant to 401 KAR 8:100, Section 1.

(b) Excessive amounts of these contaminants or excessive costs for removal of these contaminants shall be grounds for rejection of the proposed source of water.


1 (2)(a) An existing public water system that treats groundwater or surface water shall
2 sample for, analyze, and report the secondary contaminants listed in 40 C.F.R. 143.3 annually,
3 and if consumer complaints indicate the presence of one (1) or more of these contaminants.

4 (b) Treatment shall be adequate to assure that the secondary contaminant level does not
5 exceed the maximum level limits established in 40 C.F.R. 143.3.

6 (3) A sample shall be taken from each entry point to the distribution system.

7 (4) If a secondary maximum contaminant level established in 40 C.F.R. 143.3 is
8 exceeded by a supplier of water, the cabinet may direct that supplier to modify the treatment
9 procedure or to locate a more suitable source of water if the exceeded contaminant level results
10 in a violation of the primary drinking water standards or in consumer complaints.

401 KAR 8:250 Inorganic and organic chemical sampling, analytical techniques, maximum contaminant levels, radionuclides, and secondary standards is approved for filing.


Charles G. Snavely, Secretary
Energy and Environment Cabinet

4/12/2017
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2017. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person.

Contact person: Carole J. Catalfo
Internal Policy Analyst, RPPS,
Division of Water, 3rd Floor
300 Sower Boulevard
Frankfort, Kentucky 40601
Phone (502) 564-3410
Fax (502) 564-9003
Email: water @ky.gov (Subject line: "Chapter 8 regulations")

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 8:250

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes sampling and analytical requirements for inorganic and organic chemicals and sets maximum contaminant levels for those chemicals which, if exceeded, may affect public health. This administrative regulation establishes the requirements for sampling and testing procedures for radionuclides and establishes maximum contaminant levels for safe drinking water. This administrative regulation establishes maximum contaminant levels and requirements for the sampling and testing for contaminants that do not have a direct impact on the health of consumers, but may discourage the utilization of drinking water or discredit the supplier. Provisions for these contaminants are referred to as "secondary standards". This administrative regulation establishes sampling schedules and requires public water systems to modify treatment to comply with maximum levels established by the federal regulation. Federal regulations leave monitoring frequency and consequences for exceeding secondary standards to primacy agency discretion.

(b) The necessity of this administrative regulation: This administrative regulation allows the cabinet to assure the chemical purity of drinking water, controls radionuclides which is necessary to protect public health, and establishes requirements for monitoring and analyzing secondary contaminants in public water systems. All states with Safe Drinking Water Act delegation must have compatible state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Monitoring drinking water for chemical purity is essential to protect public health. Though secondary contaminants may not post a public health threat, they may make water consumption unpleasant and cause consumers to avoid using the public water system.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment consolidates the language from 401 KAR 8:550 and 8:600, which are being

repealed, into one comprehensive regulation. The substance of the three regulations has not been altered.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation consolidates the language of three regulations, two of which are being repealed, which are necessary to maintain state primacy over implementation and enforcement of the Safe Drinking Water Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.

(d) How the amendment will assist in the effective administration of the statutes: Consolidating the language of the two regulations being repealed into one comprehensive regulation will streamline regulations for convenience and ease.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects 436 public, 52 semipublic, and 5 bottled water systems in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment consolidates three regulations into one without any changes to the substance of the regulations. Regulated entities will not be required to take any additional steps to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will result from the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The language of three regulations is being consolidated into one to streamline the regulations for ease and convenience. The federal and state monitoring, analytical, and treatment requirements remain consistent.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The amendment will not result in additional costs.

(b) On a continuing basis: The amendment will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The cabinet uses federal funds to implement the provisions of the Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding will be required.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? (Explain why or why not) Yes. The regulation differs in requirements for public, semipublic, or community, non-community, and transient non-community water systems, and the number of persons served.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 8:250

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation applies in part to public and semipublic water systems which are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 10-110, 40 CFR 141, 142, 143, and 42 U.S.C. 300f through 300j-26.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not result in additional costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not result in additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This administrative regulation will not result in additional revenue or costs.

FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 8:250

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. 141, 142, 143, 42 U.S.C. 300f – 300j-26
2. State compliance standards. KRS 224.10-100(28), 224.10-110
3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. 141.11, 141.23, 141.41, 141.51, 141.62, 141.24, 141.50 and 141.61 establish analytical techniques, monitoring requirements, and maximum contaminant levels for organic and inorganic chemicals. 40 C.F.R. 141.25, 141.26, 141.55, and 141.66 identify required analytical techniques, monitoring, and maximum contaminant levels for radionuclides. 40 C.F.R. 143 establishes guidelines for public water systems and states to monitor secondary contaminants.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? This administrative regulation does not impose stricter, additional, or different responsibilities or requirements than those required by the federal mandate. The administrative regulation specifies monitoring frequencies and consequences for exceeding contaminant levels left to the discretion of the state primacy agency.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter, additional, or different responsibilities or requirements than the federal mandate.